

**REMARKS**

Claims 1, 2, 4, 5, 8-10, 12, 15, 16, 18-22, 24-26 and 28-31 are pending. Claims 1, 9 and 15 are independent. By this amendment, claims 1, 4, 9, 12, 15 and 22 are amended. No new matter is involved. Support for the amendments is found in the Application as originally filed, including, for example, paragraph [0023] and originally filed claims 12 and 13. It is well settled that the claims as filed are part of the specification, and may provide or contribute to compliance with Section 112. See *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 938, 15 USPQ2d 1321, 1326 (Fed. Cir. 1990) (the original claims are part of the patent specification); *In re Benno*, 768 F.2d 1340, 1346, 226 USPQ 683, 686-87 (Fed. Cir. 1985); *In re Frey*, 166 F.2d 572, 575, 77 USPQ 116, 119 (CCPA 1948), cited in *Hyatt v. Boone*, 47 USPQ2d 1128, 1130 (Fed. Cir. 1998).

Reconsideration of the Application, as amended, is respectfully requested.

**Rejection under 35 USC §103(a)**

Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the subject matter described in paragraphs [0004] and [0005] in the “Discussion of Related Art” portion of Applicants’ specification in view of U.S. Patent 6,430,629 to Smyers. This rejection is respectfully traversed.

Initially, Applicants note that the Board of Appeals decision does not establish that subject matter described in paragraphs [0004] and [0005] in the “Discussion of Related Art” portion of Applicants’ specification is admitted prior art with respect to Applicants.

In order for something to be considered admitted prior art, the admission must be clear, unmistakable and unequivocal. See, in this regard, Fleming v. Giesa (BdPatApp&Int) 13 USPQ2d 1052 (7/17/1989); Harner et al. v. Barron et al., 215 USPQ 743 (Comr Pats 1981), Suh v. Hoefle (BdPatApp&Int) 23 USPQ2d 1321 (4/30/1991); Issidorides v. Ley (BdPatApp&Int) 4 USPQ2d 1854 (4/2/1985); and Ex parte The Successor In Interest Of Robert S. McGaughey (BdPatApp&Int) 6 USPQ2d 1334 (3/4/1988).

However, paragraphs [0004] and [0005] are only described in the section of the Application said to be “Related Art.”

Thus, it is impermissible for the Board to use paragraphs [0004] and [0005] as admitted prior art to Applicants.

For this reason alone, this rejection of claim 1 is fundamentally improper and should be withdrawn.

Nevertheless, in order to be fully responsive to the merits of the rejection, Applicants present the following arguments.

The rejection admits that the subject matter of paragraphs [0004] and [0005] does not disclose a television receiver that repeatedly sends status request signals to at least one slave device, and does not describe a television receiver memory as cumulatively storing the operation status data included in each response signal even when the message BLOCK function of the television receiver is currently activated.

In an attempt to remedy these admitted shortcomings of paragraphs [0004] and [0005] of Applicants’ specification, the Board turns to Smyers, who is said to disclose using monitor10 to monitor and record the states of the various nodes in a storage log 80 of a home network system

so that when a home user so desires, he or she can examine the information log stored in storage

80. The Board indicates that Smyers also discloses that monitoring and recording can be programmed to occur repeatedly, based on Smyers' disclosure that the controller can be programmed to examine the temperatures measured by thermometer 140 every thirty minutes.

The Board concludes that it would be obvious to modify the subject matter of paragraphs [0004] and [0005] of Applicants' specification to include Smyers disclosed recording and subsequent log playback capabilities, and to record monitored values for later playback even if the BLOCK function has been activated by the user.

Initially, Applicants note that what is in issue is not claim 1 that was before the Board, but claim 1, as amended. Claim 1, as amended, positively recites a home network system comprising: at least one slave device; and a television receiver operatively connected to the at least one slave device, the television receiver comprising: a microprocessor operatively connected to the at least one slave device for repeatedly sending a status request signal to the at least one slave device and receiving one or more response signals from the at least one slave device; a memory coupled to the microprocessor for constructing an operation history database by cumulatively storing operation status data of the at least one slave device included in each response signal, wherein the microprocessor extracts data from the operation history database when a history inquiry request is received from a user, the history inquiry request received from the user including a user selection of a period of time; and a display unit coupled to the microprocessor for displaying the extracted operation history data, the displayed operation history data including a list of operations or events performed by one or more of the at least one slave device during the selected period of time, wherein (1) the operation status data includes

data related to specific functions performed by the at least one slave device, (2) the television receiver includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed, and (3) the memory cumulatively stores the operation status data included in each response signal even when the message BLOCK function of the television receiver is currently activated.

Applicants respectfully submit that this rejection is improper for a number of reasons.

Firstly, not all of the features of amended claim 1 are addressed in the outstanding rejection. Claim 1, as amended, recites that the microprocessor extracts data from the operation history database when a history request which includes a user selection of a period of time is received from a user, and wherein the operation history data includes a list of operations or events performed by at least one slave device during the selected periods of time. This is significant because the time periods of five, fifteen and thirty minutes described by Smyers, in col. 2, lines 23-47, corresponds to repetitious events of data transfer performed at a set interval, whereby an instantaneous state that is monitored periodically, or a series of images, is captured cyclically. Smyers clearly does not display operational history data because Smyers' data transfer is nothing more than periodically gathered snapshots that is not "operation history data including a list of operations or events performed by one or more of the at least one slave device during the selected period of time," as claimed.

Secondly, in Applicants' claimed invention, the data is (and needs to be) stored cumulatively in contradistinction to the "BLOCK FUNCTION" disclosed in paragraphs [0004] and [0005] of applicants' specification, with respect to which it is unnecessary to keep asking for, and cumulatively storing, data because any received data would just be dumped. For

example, in the claimed invention, the message block function is always set because the display of that data would ordinarily be an incomprehensible jumble when a large number of devices are connected to the network and are in operation, as explained in the Background of applicants' invention section.

Another way of stating this is that the primary art relied upon in this rejection, i.e., Applicants' paragraphs [0004] and [0005] teaches away from arriving at the claimed invention by, for example, cumulatively storing the data, and one of ordinary skill in the art would simply not have any proper incentive to modify paragraphs [0004] and [0005] of Applicants' disclosure, as suggested, and even if, solely for sake of argument, it would be proper to modify paragraphs [0004] and [0005] of Applicants' disclosure in view of Smyers, the so-modified version of paragraphs [0004] and [0005] would not meet, suggest, or otherwise render obvious the claimed invention because it would not result in, suggest, or otherwise render obvious display of operation history data including a list of operations or events performed by one or more of the at least one slave device during the selected period of time, as claimed.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 USC §103(a) are respectfully requested.

### **Allowable Subject Matter**

Because the Board failed to reject claims 2, 4, 5, 8-10, 12, 15, 16, 18-22, 24-26 and 28-3, and has reversed the previous final rejections of those claims, Applicants respectfully submit that these claims are allowable.

Applicants also note that all three independent claims have been amended similarly, so that the arguments above with respect to the patentability of claim 1 apply similarly to independent claims 8 and 15.

Applicants also note that the additional features of dependent claims 4, 12 and 22, as amended, are not addressed, and further patentably define over the applied art used in the rejection of claim 1.

### **Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46, 472, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

Application No. 10/777,655

Docket No.: 0465-1148P

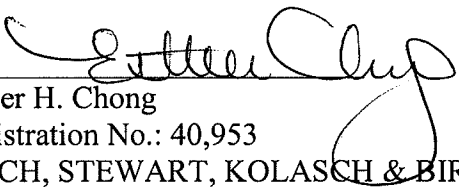
Request to Reopen Prosecution under 37 CFR §41.50(b)(1), with Claim Amendment

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

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Respectfully submitted,

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